

PATENT

REMARKS

This paper is responsive to final Office action dated November 19, 2003. Claims 1-6, 8-23, and 26-30 were examined. Claims 1-6, 8-23, and 26-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,370,148 to Calvignac et al.

Regarding claim 1, Applicants respectfully maintain that Calvignac, alone or in combination with other references of record, fails to teach or suggest

determining respective request priorities  
corresponding to respective requests for respective  
resources made by respective requesters, each request  
priority being determined according to at least a  
resource priority, resource priority being inversely  
related to a number of requests made for a particular  
resource,

as recited by claim 1. The Office Action admits, with reference to claims 1, 13, 15, 16, 17, 19, 23, and 27, that Calvignac fails to teach "assigning priority to each requested resource according to resource priority." Although the Office Action says it would be obvious to do so, there is no reference of record teaching or suggesting that approach.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of the ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations.

See MPEP § 2143. Merely stating that Calvignac can be modified to operate similarly to the claimed invention, without providing a prior art reference (or references when combined) that teaches or suggests the claimed invention, is not sufficient to establish *prima facie* obviousness. See MPEP §2143.01. Accordingly, claim 1 is patentable over the art of record.

Regarding claim 13, Applicants respectfully maintain that Calvignac, alone or in combination with other references of record, fails to teach or suggest

## PATENT

allocating respective resources to respective requesters according to priorities determined by at least a number of requests directed to each of the resources.

The Office Action admits, with reference to claims 1, 13, 15, 16, 17, 19, 23, and 27, that Calvignac fails to teach "assigning priority to each requested resource according to resource priority." Although the Office Action says it would be obvious to do so, there is no reference of record teaching or suggesting that approach. Merely stating that Calvignac can be modified to operate similarly to the claimed invention, without providing a prior art reference (or references when combined) that teaches or suggests the claimed invention, is not sufficient to establish *prima facie* obviousness. See MPEP §2143.01. Accordingly, claim 13 is patentable over the art of record.

Regarding claim 15, Applicants respectfully maintain that Calvignac, alone or in combination with other references of record, fails to teach or suggest

means for allocating requests according to at least resource priority.

The Office Action admits, with reference to claims 1, 13, 15, 16, 17, 19, 23, and 27, that Calvignac fails to teach "assigning priority to each requested resource according to resource priority." Although the Office Action says it would be obvious to do so, there is no reference of record teaching or suggesting that approach. Merely stating that Calvignac can be modified to operate similarly to the claimed invention, without providing a prior art reference (or references when combined) that teaches or suggests the claimed invention, is not sufficient to establish *prima facie* obviousness. See MPEP §2143.01. Accordingly, claim 15 is patentable over the art of record.

Regarding claim 19, Applicants respectfully maintain that Calvignac, alone or in combination with other references of record, fails to teach or suggest

an arbiter coupled to receive a plurality of requests from the requesters, each of the requests requesting

## PATENT

at least one of the resources, the arbiter allocating resources to requesters according to at least a resource priority, the resource priority being inversely related to a number of requests directed to respective resources.

The Office Action admits, with reference to claims 1, 13, 15, 16, 17, 19, 23, and 27, that Calvignac fails to teach "assigning priority to each requested resource according to resource priority." Although the Office Action says it would be obvious to do so, there is no reference of record teaching or suggesting that approach. Merely stating that Calvignac can be modified to operate similarly to the claimed invention, without providing a prior art reference (or references when combined) that teaches or suggests the claimed invention, is not sufficient to establish *prima facie* obviousness. See MPEP §2143.01. Accordingly, claim 19 is patentable over the art of record.

Regarding claim 23, Applicants respectfully maintain that Calvignac, alone or in combination with other references of record, fails to teach or suggest

allocating resources among the requesters as a function of a number of requests made, wherein the function of the number of requests utilizes, at least in part, how many requests made for each resource.


The Office Action admits, with reference to claims 1, 13, 15, 16, 17, 19, 23, and 27, that Calvignac fails to teach "assigning priority to each requested resource according to resource priority." Although the Office Action says it would be obvious to do so, there is no reference of record teaching or suggesting that approach. Merely stating that Calvignac can be modified to operate similarly to the claimed invention, without providing a prior art reference (or references when combined) that teaches or suggests the claimed invention, is not sufficient to establish *prima facie* obviousness. See MPEP §2143.01. Accordingly, claim 23 is patentable over the art of record.

PATENT

Regarding claim 27, Applicants respectfully maintain that Calvignac, alone or in combination with other references of record, fails to teach or suggest code executable to allocate respective resources to respective requesters according to priorities determined by at least a number of requests directed to each of the resources.

The Office Action admits, with reference to claims 1, 13, 15, 16, 17, 19, 23, and 27, that Calvignac fails to teach "assigning priority to each requested resource according to resource priority." Although the Office Action says it would be obvious to do so, there is no reference of record teaching or suggesting that approach. Merely stating that Calvignac can be modified to operate similarly to the claimed invention, without providing a prior art reference (or references when combined) that teaches or suggests the claimed invention, is not sufficient to establish *prima facie* obviousness. See MPEP §2143.01. Accordingly, claim 27 is patentable over the art of record.

In summary, claims 1-6, 8-23, and 26-30 are in the case. All claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

<b><u>CERTIFICATE OF MAILING OR TRANSMISSION</u></b>	
I hereby certify that, on the date shown below, this correspondence is being	
<input type="checkbox"/>	deposited with the US Postal Service with sufficient postage as first class mail, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
<input checked="" type="checkbox"/>	facsimile transmitted to the US Patent and Trademark Office.
	<u>1/20/04</u>
Nicole Teitler Cave	Date

Respectfully submitted,



Nicole Teitler Cave, Reg. No. 54,021  
Attorney for Applicant(s)  
(512) 338-6315  
(512) 338-6301 (fax)

EXPRESS MAIL LABEL: \_\_\_\_\_